

G & R ROGERS DEVELOPMENT	*	BEFORE THE
PETITIONER	*	PLANNING BOARD OF
PLANNING BOARD CASE NO. 387	*	HOWARD COUNTY, MARYLAND

\* \* \* \* \*

### DECISION AND ORDER

On November 19 and December 3, 2009, the Planning Board of Howard County, Maryland, in accordance with Section 107.E of the Howard County Zoning Regulations, held a public hearing to consider the petition of G & R Rogers Development, for approval of a Preliminary Equivalent Sketch Plan (SP-09-06), Rogers Property for the subdivision of 68 residential lots comprised of 25 single family detached (SFD) lots and 43 single family attached (SFA) lots, 9 open space lots and 2 common open area lots on a property owned by the Petitioner and consisting of 41.43 acres of land zoned "R-ED" (Residential-Environmental Development) and "R-A-15" (Residential-Apartments). The subject property is located on the southeast side of North Ridge Road approximately 300 feet west of Rogers Avenue, identified as Parcel Nos. 80 and 99 on Tax Map No. 17, in the Second Election District of Howard County, Maryland.

The Notice of Hearing was published in two newspapers and the subject property was posted in accordance with the Planning Board's requirements, as evidenced by certificates of publication and posting, all of which were made a part of the record in this case. Pursuant to the Planning Board's Rules of Procedure, all of the reports and official documents pertaining to the petition, including the petition, the Technical Staff Report of the Department of Planning and Zoning, the Howard County Code, the Howard County Design Manuals, the 2000 General Plan of Howard County, the Howard County Zoning Regulations and Zoning Map, the Howard County Subdivision and Land Development Regulations including the Forest Conservation Regulations and Manual, the Howard County Landscape Manual, the Adequate Public Facilities

1 Ordinance, and the subdivision plan and the comments from the Subdivision Review Committee  
2 agencies were made part of the record in this case.

### 3 4 **PLANNING BOARD HEARING**

5  
6 The Chairperson opened the public hearing at approximately 9:28 p.m. on November 19,  
7 2009. Kent Sheubrooks of the Department of Planning and Zoning (DPZ) presented the  
8 Technical Staff Report, which recommended approval of the Preliminary Equivalent Sketch Plan  
9 subject to compliance with all the Subdivision Review Committee (SRC) comments previously  
10 issued for SP-09-06 to the developer by letter dated August 26, 2009.

### 11 12 **PETITIONER'S TESTIMONY**

13 The Petitioner was represented by Mr. Mark Bennett and Mr. Charlie O'Donovan for the  
14 developer, and Carl Gutschick, professional engineer for Gutschick, Little and Weber, the  
15 petitioner's plan consultant. Mr. Gutschick acknowledged agreement with the DPZ staff report  
16 recommendation and stated that the project met the three Planning Board approval criteria as  
17 required by the "R-ED" Zoning Regulations. Mr. Gutschick concluded his testimony by stating  
18 that the proposed subdivision plan exemplifies a good example of a "R-ED" development.

19  
20 Planning Board members, Ms. CitaraManis and Mr. Yelder questioned the petitioner  
21 concerning the environmental disturbance area and the future status for the existing historic  
22 Rogers house.

23  
24 After the Petitioner's presentation, the Planning Board allowed residents in the audience  
25 to ask the Petitioner's representatives questions about the development plan.

1 Mr. Preston Hartmann asked questions about whether there is an operational connection  
2 between this proposed development and the existing Enclave at Ellicott Hills development;  
3 ownership, maintenance and improvements to the existing storm water management (SWM)  
4 facility; whether a traffic light is planned for the intersection of North Ridge Road and Rogers  
5 Avenue; and if existing street trees located along North Ridge Road be maintained.

6  
7 Mr. Gutschick and Mr. Bennett responded with answers to all of his specific questions.  
8 Mr. Gutschick entered the following Petitioner's Exhibits into the record for this case as part of  
9 his response to the questions: Exhibit No. 1, "Illustrative Rogers Property Overall Subdivision  
10 Plan", Exhibit Nos. 2 and 3, "Rogers Property Subdivision Plan, SP-09-06", Exhibit No. 4,  
11 "Cross-Sectional Views of the Proposed Subdivision Plan", Exhibit No. 5, "Density Map", and  
12 Exhibit No. 6, "Zoning Map Administrative Adjustment Plan".

13  
14 Ms. Susan W. H. Rura asked questions about: proposed retaining walls; perimeter  
15 landscaping; storm water run-off; the limit of disturbance; project architecture; intermittent and  
16 perennial streams; and forest retention.

17  
18 Mr. Gutschick responded with answers to all of her specific questions.

19  
20 Ms. Dombrowski, Chairperson, closed the hearing at approximately 10:20 pm and  
21 informed everyone in attendance that the hearing will be continued at the next Planning Board  
22 meeting on December 3, 2009.

23  
24 Ms. Dombrowski, Chairperson, re-opened the public hearing at approximately 9:36 pm  
25 on December 3, 2009 and allowed a continuation of the public question and answer session that  
began on November 19, 2009.

1 Ms. Susan W. H. Rura asked the following questions about whether North Ridge Road is  
2 included in this subdivision and the locations for steep slope areas, the historic house, specimen  
3 trees, and proposed retaining walls.

4  
5 Mr. Gutschick responded with answers to all of her specific questions.

6  
7 Mr. Francis Rura asked: what areas of the property factored into the density calculations  
8 for this project?

9  
10 Mr. Gutschick responded with an answer to his specific question.

11  
12 After the question and answer session concluded, the Planning Board allowed the  
13 residents in the audience to give testimony about the proposed development plan.

14  
15 **OPPOSITION TESTIMONY**

16 Ms. Susan W. H. Rura stated that Mr. Rogers has been a good neighbor and the  
17 developer did a good job developing "The Enclave at Ellicott Hills". However she felt that the  
18 proposed development project is too dense based on including the North Ridge Road right-of-  
19 way and the existing storm water management pond in the area used for density calculation.  
20 She also stated there are no townhouses in this part of Ellicott City and this project's density  
21 might be decreased if it was subject to the Historic District Commission's oversight. The log  
22 cabin on the Rogers property has existed as a single house for over 160 years and now the  
23 developer is proposing 68 houses on the same property.

24  
25 Mr. Francis Rura reiterated the concern about project density and stated that high  
density will spawn problems for the neighborhood. He questioned why the wet areas on the  
property were being used to calculate density. Mr. Rura concluded by requesting the Planning

1 Board to look beyond the Zoning Regulation criteria and control growth by decreasing the  
2 proposed density for this project.

3  
4 As part of the Petitioner's rebuttal to the opposition's testimony, Mr. O'Donovan  
5 responded that the developer has taken great care to keep the environmental impact to an  
6 absolute minimum through the use of the TND design, clustering, use of retaining walls, and  
7 meetings with the Maryland Department of the Environment and the U.S. Army Corps of  
8 Engineers to minimize the impacts of the entrance road. Mr. O'Donovan indicated the project  
9 received a good recommendation from the Historic District Commission and that they  
10 maximized open space on the property to exceed the Zoning requirements.

11  
12 Ms. Dombrowski, Chairperson, closed the hearing at approximately 10:17 p.m. After  
13 careful evaluation of all of the testimony and information presented at the hearing, the Howard  
14 County Planning Board made the following Findings of Fact and Conclusions of Law.

15  
16 **FINDINGS OF FACT**

17 1. The proposed Preliminary Equivalent Sketch Plan, SP-09-06, is for the subdivision of 68  
18 building lots comprised of 25 single family detached residential lots and 43 single family  
19 attached residential lots, 9 open space lots and 2 common open area lots.

20 2. This project is subject to compliance with the Howard County Subdivision and Land  
21 Development Regulations including the Forest Conservation Regulations and Manual, the  
22 Howard County Landscape Manual, the Howard County Zoning Regulations and Zoning Map,  
23 the Howard County Design Manuals and the Adequate Public Facilities Ordinance.

24 3. The area of the proposed subdivision plan is approximately 41.43 acres and the area of  
25 the proposed credited open space lots are approximately 26.11 acres or 63 percent of the site.  
The total limit of disturbed area on the Preliminary Equivalent Sketch Plan is approximately 14.5  
acres or 35 percent of the site.

1 4. The proposed residential development plan does effectively protect, preserve and  
2 minimize the limits of disturbance of the historic and environmental resources on the subject  
3 property. The plan proposes open space acreage that is more than the acreage required. The  
4 open space will contain the areas of wetlands, streams, environmental buffers, flood plain,  
5 protected 25 percent or greater steep slopes, and will be predominately forested. The  
6 environmental resources will be preserved and protected within open space lots that will be  
7 dedicated to the Howard County Department of Recreation and Parks and/or the Homeowners  
8 Association. The development plan does not propose disturbance within the environmentally  
9 sensitive areas, except for the installation of the proposed internal public road crossing, storm  
10 drain pipe extensions and the SWM facility outfall discharges as approved by the Department of  
11 Planning and Zoning as essential or necessary disturbances in accordance with Section  
12 16.116(c) of the Subdivision and Land Development Regulations.

13 5. The total limit of disturbed area for the proposed development including the new public  
14 loop road, private alleys, public utilities, house pad sites for building lots and the storm water  
15 management facility will involve approximately 14.5 acres or 35% of the site. Grading for the  
16 proposed development will not involve disturbances of the protected 25% or greater steep  
17 slopes with a contiguous area over 20,000 square feet, 100 year floodplain, wetlands, streams  
18 or required buffers, except for the construction of the proposed internal public road, storm drain  
19 pipe extensions and the SWM facility outfall discharges.

20 6. The subdivision plan accomplishes protection of the environmental resources on-site by  
21 the following means:

- 22 a. By placing and clustering the residential lots on the moderately sloped area of the site away  
23 from the environmental feature and buffer areas.
- 24 b. By keeping the proposed lot sizes close to the minimum lot size requirement of 6,000 square  
25 feet;

1 c. By maximizing the amount of environmental open space, through the designation of more  
2 than 63% of the site as open space areas, which exceeds the minimum 50% open space  
3 requirement.

4 d. By keeping the proposed public loop road length to a minimum to reduce the amount of  
5 imperious paving, grading and tree clearing on-site. Also, the entrance road is designed to  
6 skirt the wetlands and stream with only minimal impact.

7 e. By maintaining a reasonable setting for the historic house on an oversized lot with proposed  
8 roads oriented to relate well to the historic house.

9 f. By using the principles for a Traditional Neighborhood Design development, the buildable  
10 area of the project is more compact and open space areas are larger in size.

11 In employing the above design and construction techniques, the amount of grading, tree  
12 clearing and paving are reduced to the extent possible to minimize the limits of disturbance on  
13 the subject property.

14 7. The proposed subdivision plan design has been determined adequate in taking  
15 advantage of the uniqueness of the site's topography by minimizing the limits of clearing and  
16 grading necessary to construct houses, the public road, private alleys, SWM facilities and public  
17 utilities.

18 8. Compliance with the required setbacks and preservation of existing vegetation along the  
19 subdivision perimeter with supplemental landscaping are proposed to buffer the proposed  
20 development from the surrounding neighboring properties and roads.

21 9. Sensitive environmental areas will be permanently protected, either by dedication as  
22 open space or by forest conservation and 100 year flood plain easements. The wetlands,  
23 streams, environmental buffers, flood plain, and a majority of the 25 percent or greater steep  
24 slopes and forested areas will be located and protected on open space lots. The most  
25 environmentally sensitive areas of this site which are located along the Sucker Branch and  
adjoining the on-site stream systems will be permanently protected and preserved as recorded

1 forest conservation and 100 year flood plain easements and dedicated as open space to  
2 Howard County Department of Recreation and Parks.

3 10. The project will provide SFD dwellings along the entire eastern boundary to achieve  
4 compatibility with the existing community before transitioning into the SFA units which are  
5 centrally located within the project site.

6 11. The proposed development will be served by public water and sewer.

7 12. This "TND" designed subdivision proposal effectively protects, preserves and minimizes  
8 the limits of disturbance of the historic and environmental resources on the subject property to  
9 the extent possible. This subdivision plan does comply with the "R-ED" Zoning Regulation  
10 requirements and the Subdivision and Land Development Regulations.

11 13. The Planning Board accepts the Department of Planning and Zoning's evaluation of the  
12 petition as provided in the Technical Staff Report.

### 13 14 15 **CONCLUSIONS OF LAW**

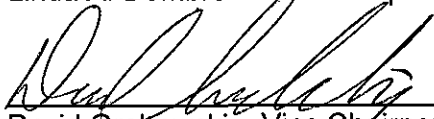
16 The Planning Board concluded that proposed Preliminary Equivalent Sketch Plan, SP-  
17 09-06, satisfies all of the standards for approval of a Sketch Plan provided in Section 107.E of  
18 the Howard County Zoning Regulations for the reasons stated in the Department of Planning  
19 and Zoning's Technical Staff Report.

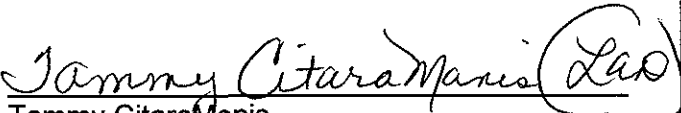
20  
21 For the foregoing reasons, the petition of G & R Rogers Development for approval of a  
22 Preliminary Equivalent Sketch Plan for 68 residential lots comprised of 25 single family  
23 detached lots and 43 single family attached lots, 9 open space lots and 2 common open area  
24 lots located on approximately 41.43 acres of land zoned "R-ED", is this 10<sup>th</sup> day of DECEMBER  
25 2009, APPROVED by the Planning Board of Howard County.

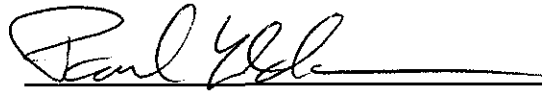


HOWARD COUNTY PLANNING BOARD

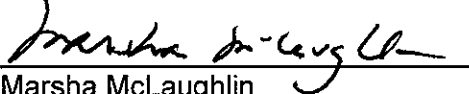
  
Linda A. Dombrowski - Chairperson

  
David Grabowski - Vice Chairperson

  
Tammy Citaramanis

  
Paul Yelder

ATTEST:

  
Marsha McLaughlin  
Executive Secretary

REVIEWED FOR LEGAL SUFFICIENCY BY:  
HOWARD COUNTY OFFICE OF LAW  
MARGARET ANN NOLAN  
COUNTY SOLICITOR

  
Paul Johnson  
Deputy County Solicitor

**LIST OF APPLICANT'S EXHIBITS**

**PB-387 (SP-09-06), ROGER'S PROPERTY**

Exhibit No. 1, "Illustrative Rogers Property Overall Subdivision Plan"

Exhibit Nos. 2 and 3, "Rogers Property Subdivision Plan SP-09-06"

Exhibit No. 4, "Cross-Sectional Views of the Proposed Subdivision Plan"

Exhibit No. 5, "Density Map"

Exhibit No. 6, "Zoning Map Administrative Adjustment Plan".

**LIST OF PROTESTANT'S EXHIBITS**

None were introduced

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